Commission Regulation (EU) 2016/2096 of 30 November 2016 amending Regulation (EU) No 1254/2009 as regards certain criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/2096

of 30 November 2016

amending Regulation (EU) No 1254/2009 as regards certain criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002[(1)], and in particular Article 4(4) thereof,

Whereas:

(1) Experience with the implementation of Commission Regulation (EU) No 1254/2009[(2)] has shown the need to clarify the requirement for risk assessments and be more specific on the types of operations of certain categories of air traffic listed in this Regulation in order to improve legal clarity, so as to avoid diverging interpretations of the legislation.

(2) In exceptional cases and taking into consideration the specific nature of the flight, Member States should have the possibility to derogate from the weight limitations laid down in Regulation (EU) No 1254/2009 for certain categories of flights. Such derogations should be based on individual risk assessments and allow other Member States receiving such flights to require prior notification or approval.

(3) Regulation (EU) No 1254/2009 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 19(3) of Regulation (EC) No 300/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1254/2009 is amended as follows:

(1) in Article 1, the first sentence is replaced by the following:

> Member States may derogate from the common basic standards referred to in Article 4(1) of Regulation (EC) No 300/2008 and adopt alternative security measures that provide an adequate level of protection on the basis of a risk

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2016/2096. (See end of Document for details)*

assessment approved by the appropriate authority at airports or demarcated areas of airports where traffic is limited to one or more of the following categories:;

(2) in Article 1, point 3 is replaced by the following:

3. State, military and law enforcement flights;;

(3) in Article 1, point 10 is replaced by the following points 10, 11 and 12:

10. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, owned by a company for the carriage of own staff and non-fare-paying passengers and goods as an aid to the conduct of company business;

11. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, chartered or leased in its entirety by a company from an aircraft operator with which it has a written agreement for the carriage of own staff and non-fare-paying passengers and goods as an aid to the conduct of company business;

12. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, for the carriage of the owner of the aircraft and of non-fare-paying passengers and goods.;

(4) in Article 1, the following paragraph is added:

For flights covered under points 10, 11 and 12, but with a maximum take-off weight of 45 500 kilograms or more, the appropriate authority may in exceptional cases, and based on a risk assessment for each individual case, derogate from the weight limitation laid down in these categories. Member States receiving such flights with 45 500 kilograms or more may require prior notification, which may include a copy of the risk assessment carried out, or their prior approval. The requirement for prior notification or approval shall be submitted in writing to all other Member States..

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 November 2016.

For the Commission

The President

Jean-Claude JUNCKER